IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.3612 of 2006

DATE OF DECISION: January 24, 2007.

Onkar Singh

.....Petitioner

Vs.

Dilbagh Rai and another

.....Respondents

PRESENT: Ms. Upinder Kaur, Advocate for the petitioner.
Mr. Sumeet Mahajan, Advocate for the respondents.

JUDGMENT

M.M.Aggarwal, J.

This is a petition filed by the tenant against order dated 10.5.2006 of Rent Controller, Ludhiana, whereby request of the tenant-petitioner for leave to contest was declined and he was directed to vacate the demised premises and to had over vacant possession within a period of two months.

The facts of the case are that Dilbagh Rai and Charanjit Rai had filed petition under Section 13-B of the East Punjab Urban Rent Restriction Act (for short " the Act") for ejectment of the tenant (now petitioner) from shop No.2 which is part of property situated at Ludhiana. Petitioner No.2 Charanjit Rai had claimed himself to be owner, whereas Dilbagh Rai petitioner No.1 was stated to be his brother and both petitioners were stated to be Non-Residents Indian. According to the petitioners (now respondents), they had settled in Ludhiana and demised premises was required for their own use and for use of son of petitioner No.2 namely Sarvinder Bassi. In that petition, application for leave to contest was submitted by the tenant now petitioner but that was declined.

From the rent note, copy Annexure -I, it would come out that Onkar Singh tenant-petitioner had executed the same in respect of the property in dispute in favour of Dilbagh Rai on 14.10.1992. It is the admitted fact and averred in the petition, that Charanjit Rai is the owner. Dilbagh Rai who let out the property had never claimed that he is owner of the property.

It was not the case of the landlord-petitioners that Charanjit Rai owner had let out the premises. From the documents placed on the file and averments, it would come out that Dilbagh Rai had let out the premises, whereas Charanjit Rai is the owner.

Even if Charanjit Rai is the owner and Non Resident Indian and has returned to India and is owner of the property for the last more than 5 years, still as per section 13-B of the Act, it would have further to be shown by that owner that the property was let out by him or her. This is not the case here.

Under these circumstances, it was a fit case where leave to appeal should have been granted. As such, this petition is allowed. Impugned order dated 10.5.2006 of Rent Controller is set aside. Petitioner is granted leave to contest the petition.

Parties to appear in trial Court on 12.2.2007.

Since petition is under Section 13-B of the Act, let trial Court take steps to expeditiously dispose of the petition, preferably within a period of six months.

(M.M.Aggarwal)
Judge

January 24, 2007
raghav